IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH POUSHA, 1928.

WP(C).No. 565 OF 2007(P)

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PETITIONER:

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SUNFERROMELT PVT.LTD.,
REP. BY ITS DIRECTOR, AUTHORISED SIGNATORY,
BHATTIPADAV, TALAKALA VILLAGE, P.O.KADAMBAR,
MANJESWAR, KASARAGOD.

BY ADV. SRI.K.V.SOHAN
SMT.SREEJA SOHAN.K.
SMT.SANJANA R.NAIR

RESPONDENTS:

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1. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KASARAGOD.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE.

3. THE COMMERCIAL TAX OFFICER,
AUDIT ASSESSMENT, KASARAGOD.

GOVT. PLEADER SRI. SOJAN JAMES.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 565 OF 2007

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DATED THIS, THE 5TH DAY OF JANUARY, 2007

J U D G M E N T

Petitioner challenges Ext.P2, an interim order passed by the appellate authority in the stay application filed by the petitioner. Earlier, he had approached this Court and this Court directed the stay application to be disposed of as per order in W.P.(C) 31654/2006, Ext.P1 produced herein. Subsequently, after considering the matter and being satisfied that there is a prima facie case, petitioner was given a conditional stay requiring him to deposit Rs. 20 lakhs towards tax and Rs. 5 lakhs towards penalty within one month. The order was passed on 6.12.2006 and the period expires on 6.1.2007.

2. Learned counsel for the petitioner submits that the unit was closed due to disconnection of the power supply and huge amount of penalty is imposed. Now the unit is being revived because the power has been restored. In such circumstances, he pleads total inability to raise such a huge amount and prays that he may be given a breathing time and the

conditions imposed may suitably be modified.

Normally, this Court will not interfere with the interim orders passed by the appellate authority. However, taking in to consideration the financial disability pleaded by the petitioner, it appears that the order impugned will cause undue hardship to him and some suitable modification should be made.

In the circumstances, there will be a direction that if the petitioner pays an amount of Rs. 15 lakhs (Fifteen lakhs) in two installments, the first of which will fall due on 30.1.2007 and the second on 28.2.2007, there will be a stay of recovery of the balance amount towards tax and penalty until the appeal is disposed of. However, if he fails to remit either of these two installments, the benefit of this judgment automatically will stand cancelled.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN,
JUDGE.

knc/-